

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DEMETRIS GUZMAN §
VS. § CIVIL ACTION NO. 1:06-CV-245
JORDAN HOLLINGSWORTH §

MEMORANDUM ORDER OVERRULING PLAINTIFF’S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff Demetris Guzman, a federal prisoner previously confined in Beaumont, Texas, proceeding *pro se*, filed this civil rights complaint pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), against Jordan Hollingsworth. Plaintiff alleges the defendant denied him due process by reducing his pay grade without giving plaintiff notice and an opportunity to be heard.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the case pursuant to 28 U.S.C. § 1915(e) as frivolous and for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the

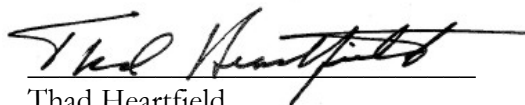
objections are without merit. Because plaintiff does not have a liberty interest in his work assignment or pay grade, he was not entitled to any particular process before his pay grade was reduced. *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995).

After the report and recommendation was entered, plaintiff paid the full filing fee. Therefore, it is no longer appropriate to dismiss the case under 28 U.S.C. § 1915(e), which only applies to indigent litigants. However, dismissal is appropriate under 28 U.S.C. § 1915A, which applies to all lawsuits filed by prisoners, regardless of whether the filing fee has been paid.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED** to the extent that it recommends dismissing the case as frivolous and for failure to state a claim upon which relief may be granted. A final judgment will be entered in this case in accordance with this memorandum order.

SIGNED this the **2** day of **June**, 2006.

A handwritten signature in black ink, appearing to read 'Thad Heartfield', is written over a horizontal line.

Thad Heartfield
United States District Judge